

**3SHB 2939 - H AMD 814**

By Representative Ericksen

**WITHDRAWN 2/11/2006**

1 On page 8, after line 32, insert the following:

2 "Sec. 11. RCW 90.14.140 and 2001 c 240 s 1 are each amended to  
3 read as follows:

4 (1) For the purposes of RCW 90.14.130 through 90.14.180,  
5 "sufficient cause" shall be defined as the nonuse of all or a  
6 portion of the water by the owner of a water right for a period of  
7 five or more consecutive years where such nonuse occurs as a result  
8 of:

9 (a) Drought, or other unavailability of water;

10 (b) Active service in the armed forces of the United States  
11 during military crisis;

12 (c) Nonvoluntary service in the armed forces of the United  
13 States;

14 (d) The operation of legal proceedings;

15 (e) Federal or state agency leases of or options to purchase  
16 lands or water rights which preclude or reduce the use of the right  
17 by the owner of the water right;

18 (f) Federal laws imposing land or water use restrictions either  
19 directly or through the voluntary enrollment of a landowner in a  
20 federal program implementing those laws, or acreage limitations, or  
21 production quotas;

22 (g) Temporarily reduced water need for irrigation use where  
23 such reduction is due to varying weather conditions, including but  
24 not limited to precipitation and temperature, that warranted the  
25 reduction in water use, so long as the water user's diversion and  
26 delivery facilities are maintained in good operating condition  
27 consistent with beneficial use of the full amount of the water  
28 right;

29 (h) Temporarily reduced diversions or withdrawals of irrigation  
30 water directly resulting from the provisions of a contract or  
31 similar agreement in which a supplier of electricity buys back

1 electricity from the water right holder and the electricity is  
2 needed for the diversion or withdrawal or for the use of the water  
3 diverted or withdrawn for irrigation purposes;

4 (i) Water conservation measures implemented under the Yakima  
5 river basin water enhancement project, so long as the conserved  
6 water is reallocated in accordance with the provisions of P.L. 103-  
7 434;

8 (j) Reliance by an irrigation water user on the transitory  
9 presence of return flows in lieu of diversion or withdrawal of  
10 water from the primary source of supply, if such return flows are  
11 measured or reliably estimated using a scientific methodology  
12 generally accepted as reliable within the scientific community;  
13 ((or))

14 (k) The reduced use of irrigation water resulting from crop  
15 rotation. For purposes of this subsection, crop rotation means the  
16 temporary change in the type of crops grown resulting from the  
17 exercise of generally recognized sound farming practices. Unused  
18 water resulting from crop rotation will not be relinquished if the  
19 remaining portion of the water continues to be beneficially used;  
20 or

21 (l) The reduced use of irrigation water resulting from the  
22 growing of crops used for alternative fuel production, including  
23 ethanol and biodiesel.

24 (2) Notwithstanding any other provisions of RCW 90.14.130  
25 through 90.14.180, there shall be no relinquishment of any water  
26 right:

27 (a) If such right is claimed for power development purposes  
28 under chapter 90.16 RCW and annual license fees are paid in  
29 accordance with chapter 90.16 RCW;

30 (b) If such right is used for a standby or reserve water supply  
31 to be used in time of drought or other low flow period so long as  
32 withdrawal or diversion facilities are maintained in good operating  
33 condition for the use of such reserve or standby water supply;

34 (c) If such right is claimed for a determined future  
35 development to take place either within fifteen years of July 1,  
36 1967, or the most recent beneficial use of the water right,  
37 whichever date is later;

38 (d) If such right is claimed for municipal water supply  
39 purposes under chapter 90.03 RCW;

1 (e) If such waters are not subject to appropriation under the  
2 applicable provisions of RCW 90.40.030;

3 (f) If such right or portion of the right is leased to another  
4 person for use on land other than the land to which the right is  
5 appurtenant as long as the lessee makes beneficial use of the right  
6 in accordance with this chapter and a transfer or change of the  
7 right has been approved by the department in accordance with RCW  
8 90.03.380, 90.03.383, 90.03.390, or 90.44.100;

9 (g) If such a right or portion of the right is authorized for  
10 a purpose that is satisfied by the use of agricultural industrial  
11 process water as authorized under RCW 90.46.150; or

12 (h) If such right is a trust water right under chapter 90.38 or  
13 90.42 RCW.

14 (3) In adding provisions to this section by chapter 237, Laws  
15 of 2001, the legislature does not intend to imply legislative  
16 approval or disapproval of any existing administrative policy  
17 regarding, or any existing administrative or judicial  
18 interpretation of, the provisions of this section not expressly  
19 added or revised."

20 Renumber remaining sections consecutively and correct title and  
21 internal references accordingly.

**EFFECT:** Using less water to grow crops for the production of ethanol or biodiesel constitutes a sufficient cause for not using an entire water right, thereby preventing the relinquishment of the water right.